

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

DMITRIY SHIROKOV, on behalf of himself  
and all others similarly situated,

Plaintiff

v.

DUNLAP, GRUBB & WEAVER, PLLC; US  
COPYRIGHT GROUP; THOMAS DUNLAP;  
NICHOLAS KURTZ; GUARDALEY,  
LIMITED; and ACHE/NEUNTE BOLL KINO  
BETEILIGUNGS GMBH & CO. KG,

Defendants.

CIVIL ACTION NO. 1:10-CV-12043-GAO

**ACHE/NEUNTE BOLL KINO BETEILIGUNGS GMBH & CO. KG'S MOTION  
TO DISMISS THE SECOND AMENDED CLASS ACTION COMPLAINT**

The defendant, Achte/Neunte Boll Kino Beteiligungs Gmbh & Co. Kg  
("Achte/Neunte") hereby moves to dismiss the Second Amended Class Action Complaint  
(hereinafter "Second Amended Complaint") in its entirety pursuant to Fed. R. Civ. P.  
12(b)(1) for lack of subject matter jurisdiction and pursuant to Fed. R. Civ. P. 12(b)(6)  
for failure to state a claim upon which relief can be granted. Achte/Neunte incorporates  
herein the statement of reasons and citation to supporting authorities included in its  
Memorandum of Law in Support of Defendant Achte/Neunte Boll Kino Beteiligungs  
Gmbh & Co. Kg's Motion to Dismiss the Second Amended Class Action Complaint filed  
contemporaneously with this motion.

Wherefore, Achte/Neunte respectfully requests that the Court dismiss all of the  
plaintiff's claims against Achte/Neunte in their entirety with prejudice, dismiss the  
related claims of the putative class with prejudice, and award Achte/Neunte attorney's  
fees, costs, and any other relief that the Court deems just and proper.

**REQUEST FOR ORAL ARGUMENT**

Achte/Neunte, believing that oral argument will assist the Court and wishing to be heard, hereby requests a hearing on its motion to dismiss.

**ACHTE/NEUNTE BOLL KINO  
BETEILIGUNGS GMBH & CO. KG**

By its attorneys,

*/s/ Harvey Weiner*

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**CERTIFICATE PURSUANT TO LOCAL RULE 7.1**

I hereby certify that I have conferred with plaintiff's counsel regarding the foregoing motion to dismiss and attempted in good faith to resolve or narrow the issues in dispute.

*/s/ Kevin C. Cain*

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Kevin C. Cain

**CERTIFICATE OF SERVICE**

I, Harvey Weiner, counsel for the defendant, do hereby certify, that I have this date, served the foregoing *Defendant Achte/Neunte Boll Kino Beteiligungs GmbH & Co. Kg's Motion to Dismiss the Second Amended Class Action Complaint* by causing a copy of said document to be sent electronically to the registered participants in this case as identified on the Notice of Electronic Filing (NEF) and paper copies mailed, first class mail, postage prepaid to any non-registered participants in this case.

*/s/ Harvey Weiner*

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Harvey Weiner